

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BORTNER/HECKATHORNE,
Minors.

UNPUBLISHED
November 21, 2013

Nos. 315445; 315447
Wayne Circuit Court
Family Division
LC No. 11-499372-NA

Before: SAWYER, P.J., and O'CONNELL and K. F. KELLY, JJ.

PER CURIAM.

In these consolidated appeals, respondent mother appeals as of right from an order terminating her parental rights to both minor children pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). Respondent father appeals as of right from the same order, which terminated his parental rights to his child pursuant to these same provisions. We affirm.

I. FACTUAL BACKGROUND

In March 2011, the children were removed from respondent mother's care by the Inkster police. According to the petition, respondent mother had a prior Children's Protective Services (CPS) history involving leaving her children in a deplorable home, and she had mental health issues. Further, respondent mother appeared to be under the influence when the children were removed from her home, which was in a deplorable, filthy condition. The petition further alleged that respondent father failed to provide for his child and failed to protect her from neglect. Respondent mother entered a plea and the court assumed jurisdiction over the minor children. At disposition, the court adopted a Parent-Agency Agreement requiring respondent mother to participate in various services and respondent father to address his mental health issues. In December 2012, the court authorized a termination petition, alleging that both respondents failed to comply with their treatment plan. After a hearing, the court entered an order terminating respondents' parental rights.

II. STANDARD OF REVIEW

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). The trial court's decision is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A decision is clearly

erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

III. ANALYSIS

According to the foster care worker, respondent mother failed to maintain stable housing during these proceedings and had no suitable housing at the time of the termination hearing. While respondent mother claimed that she was residing in a three-bedroom home with a family and that they agreed to let her children reside there, the trial court apparently did not believe that and this Court defers to that credibility determination. *In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011). Also, respondent mother had not fully complied with services to address her substance abuse and mental health, and the foster care worker was still concerned about abuse of prescription medication. Given these circumstances, the trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i), (g) and (j) were established by clear and convincing evidence. Moreover, contrary to respondent mother's claim, our review of the record indicates that DHS made reasonable reunification efforts. *Mason*, 486 Mich at 152; *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012); MCL 712A.19a(2).

The evidence established that respondent father could not provide for his child. Respondent father has schizoaffective disorder, bi-polar disorder and anxiety, and he informed the worker that he was unable to care for his child because of his mental health issues and lack of a residence. Respondent father also testified at the hearing that he was not currently in a position, either physically or emotionally, to care for his child, and he did not have suitable housing yet and would not have that for about a year. Aside from these issues, respondent father admitted he had a substance abuse history involving alcohol, had recently entered inpatient treatment for that, and had a felony conviction for providing pills to someone. This evidence justified termination of respondent father's parental rights under MCL 712A.19b(3)(c)(i), (g) and (j).

In deciding a child's best interests, a court may consider the child's bond to his parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the suitability of alternative homes. *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The court must decide the best interests of each child individually. *Id.* at 42.

In this case, the evidence established that both parents were bonded with their children. Nonetheless, neither parent had appropriate housing. Both parents had issues that would seriously undermine their ability to parent these special needs children. This case had been pending for a lengthy period of time and the children deserved permanency. Although the trial court did not expressly consider the best interests of each child individually, the children's interests were the same and there is no basis for concluding that the outcome would have been different had the court discussed each child individually. Given these circumstances, the trial court did not clearly err in concluding that termination of both respondents' parental rights was in the children's best interests.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Kirsten Frank Kelly